

THIRTEENTH JUDICIAL CIRCUIT COURT



1997
ANNUAL REPORT

STATE OF MICHIGAN



Thirteenth Judicial Circuit

PHILIP E. RODGERS, JR.
THOMAS G. POWER
CIRCUIT JUDGES

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COUNTIES
ANTRIM
GRAND TRAVERSE
LEELANAU

LAILA OLSON
COURT ADMINISTRATOR

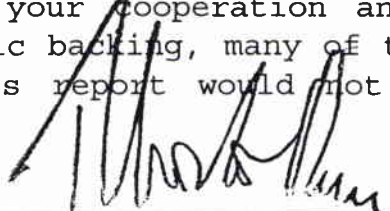
Antrim County Board of Commissioners
Grand Traverse County Board of Commissioners
Leelanau County Board of Commissioners
Citizens of Antrim, Grand Traverse and Leelanau Counties

We are pleased to present the 1997 Annual Report of the Thirteenth Judicial Circuit Court. This is the first such report issued by the court, but we hope to continue to provide the citizens and boards of commissioners of Antrim, Grand Traverse and Leelanau Counties with an annual reporting of this court's goals and accomplishments.

Many citizens have little contact with their local court system. For some, the delineation between the functions and services provided by Probate, District and Circuit Court are vague. For that reason we have chosen, within the introduction which follows, to briefly define the jurisdictional limits of the Circuit Court. We hope that by describing the purpose, responsibilities and activities of the court, citizens in the community will have a better understanding of how we serve their needs and will feel comfortable should circumstances call them before the Court.

To the boards of commissioners in our three counties, we wish to express our appreciation for your cooperation and generous support. Without your enthusiastic backing, many of the Court's achievements as described in this report would not have been possible.


PHILIP E. RODGERS, JR.
Circuit Judge


THOMAS G. POWER
Circuit Judge

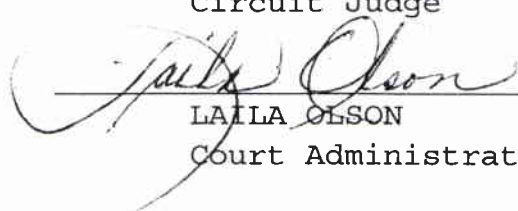

LAILA OLSON
Court Administrator

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INTRODUCTION

The Thirteenth Judicial Circuit Court serves the citizens of Antrim, Grand Traverse and Leelanau Counties. It is a trial court of general jurisdiction which hears cases involving civil disputes in matters involving damages or loss of \$10,000 or more, matters in equity, domestic relations matters, appellate review of lower courts and criminal felony cases.¹

Civil cases which involve damages under \$10,000 fall within the District Court's jurisdiction, as do misdemeanor criminal cases, traffic offenses and small claims court.²

Probate Court is

¹Under Public Act 388 of 1996, the jurisdictional amount for civil cases in Circuit Court increases to amounts of \$25,000 or more as of 1/1/98 and \$25,000 or less in District Court.

²Ibid

responsible for the processing of wills and estates and guardianships and competency hearings regarding adults. 1997 is the last year in which the Probate Court also has jurisdiction over criminal cases involving minors, abuse and neglect, guardianships of juveniles and adoption proceedings. With the implementation in January, 1998, of the Family Division of the Circuit Court nearly eighty percent of the former jurisdiction of the Probate Court reverts to the jurisdiction of the Circuit Court. Those judges serving as Probate Judges at that time will retain their Probate Court responsibilities, but will also take on a domestic relations caseload as part of their new role as Family Division Judges.³

Judges of the Thirteenth Circuit still "ride the circuit;" that is, court is held in Leland and Bellaire on regularly scheduled motion days

³Under the requirements of public Act 388 of 1996, the Chief Judge of the Circuit, in conjunction with the Probate Judges of the three counties, developed a plan which was submitted July, 1997, creating a new Family Division within the Circuit.

and on dates scheduled for trials in Leelanau and Antrim county, respectively. Grand Traverse County cases are heard in Traverse City, which houses the administrative offices of the Court.

Each of the county seats within the Circuit has an independent county clerk/Circuit Court Records office which is responsible for filing and maintenance of the Court's records. This office also manages the process of identifying and notifying potential jurors for all Circuit Court trials.

THREE-COUNTY OPERATING AGREEMENT

In December of 1996, the Court and its three constituent counties entered into a written operating agreement which describes the authority and responsibility of each branch of government and their obligations in relation to each other.

This agreement establishes an equitable formula by which each county shares the expenses of financing the Court. Such expenses include payments to counsel for indigent defendants, juror compensation, staff salaries and insurance benefits, computer equipment, office furniture, facilities, office supplies and any other miscellaneous services or equipment required in the performance of the Court's day-to-day duties. It also provides an orderly process for establishing and monitoring the Court's budget and resolving any financial disputes.

The agreement establishes Grand Traverse County as the "fiscal agent" for the counties with the responsibility for the bookkeeping operations associated with meeting the Court's payroll and also for

the preparation of an annual accounting to be provided to the Court and Antrim and Leelanau Counties. The fiscal agent also bears the responsibility for maintaining the Court's personnel records and the administration of the Court employees' health and benefit packages.

The agreement may be modified by mutual consent of the parties; and, should any disputes arise, the agreement sets forth procedures through which they may be resolved.

The Court is pleased that it was able to achieve such an agreement with its funding units, as it provides a forum for discussion and exchange of information of mutual interest between county officials and judges and perpetuates regional cooperation which we are proud to have achieved.

JUDGES OF THE
THIRTEENTH JUDICIAL
CIRCUIT COURT

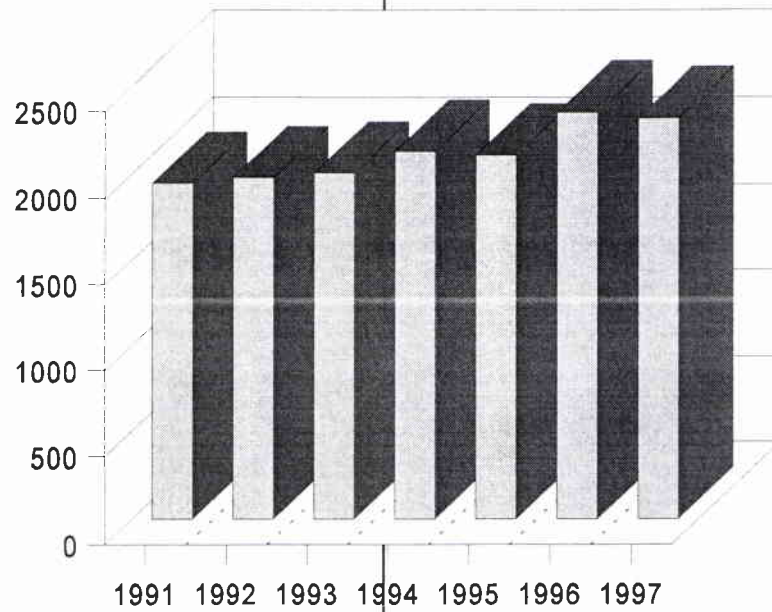
Two full-time judges serve the Thirteenth Circuit Court.

Judicial assignments are made by a random, alternating case selection process so that each judge is assured an equal assignment of cases by case type; that is, a breakdown by case code of domestic relations, civil, auto negligence, criminal, etc.

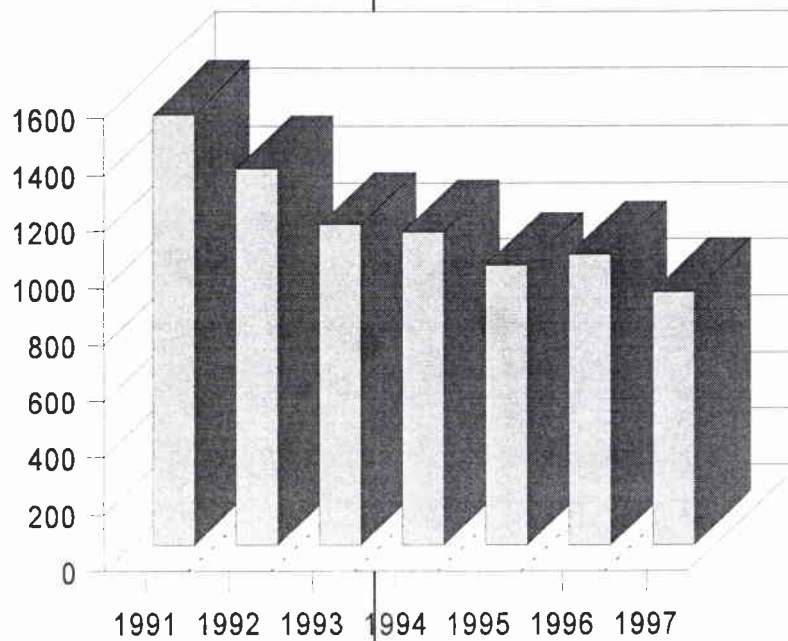
Total caseload over the years has, for the most part, been increasing at a steady rate. During 1997, 2,319 new cases were filed within the Circuit. (See Trends in New filings chart) By aggressively managing the docket and implementing new case management procedures and policies within the Circuit, the case disposition rate has been significantly increased as well, enabling the court to reflect an average disposition rate of 2,486 cases this year per judge. (See Trends in Ending Pending chart).

The court has been assisted in reducing its docket in this manner through utilization of visiting judges. Both retired Judges William R. Brown and Charles M. Forster have provided assistance to the court by presiding over criminal and civil trials which would otherwise have had to be adjourned due to scheduling conflicts. Leelanau County Probate Judge Joseph Deegan and

Trends in New Filings



Trends In Ending Pending



Grand Traverse County Probate Judge John Foresman are on a regular assignment to the Circuit and have also aided the court by not only presiding over trials, but also hearing uncontested divorce matters and criminal arraignments, pleas, sentencings and motion hearings.

With the implementation of the Family Division in 1998, however, the Probate Judges will be fulfilling Family Division responsibilities which will restrict their ability to assist the Circuit in resolving such conflicts. The 86th District Court Judges have signed a Cooperation Agreement and generously agreed to provide assistance.



PHILIP E. RODGERS, JR.

Judge Rodgers began serving his second term on the bench January 1, 1997, after running for election as an

unopposed incumbent. He was first elected in 1990, and has been the Chief Circuit Court Judge since 1992. Prior to assuming the bench, the Judge was a partner and trial attorney in the law firm of Menmuir, Zimmerman, Rollert and Kuhn.

Judge Rodgers graduated in 1978 from the University of Michigan law School, where he had previously obtained his undergraduate degree. The Judge also earned a Masters of Public Policy degree from the University in 1977.

As a college student, the Judge was a Rotary International Graduate Fellow and spent a year in England studying public finance economics. Later, the Judge joined the Traverse City Rotary Club and served for six years on the Board of Directors of Rotary Charities.

Judge Rodgers has also served his community through participation on the City Commission for four years, and was Mayor of the city of Traverse City in 1989. The Judge continues to be a trustee of the National Cherry Festival. The Judge is married and has four children.



THOMAS G. POWER

A native of Traverse City, Judge Power was elected to the bench in 1992. Prior to his election, Judge Power served with distinction as a representative in the Michigan State Legislature for ten years. Among the Judge's important committee assignments was the House Judiciary Committee. Before election to the legislature, the Judge practiced law in Traverse City in the firm of Elhart and

Power. His was a general civil practice in the areas of business and estate planning and commercial litigation.

The Judge graduated from the University of Michigan Law School in 1974, having first obtained his undergraduate degree from Carleton College in Northfield, Minnesota. Judge Power later obtained a Masters Degree in taxation from New York University in 1978.

Judge Power is a member of the Traverse City Rotary Club, a past Traverse City School Board member and past member of the Grand Traverse/Leelanau Mental Health Board. The Judge is married and has two children.



COURT ADMINISTRATOR'S OFFICE

The Court Administrator for the Circuit acts as its chief executive officer, with the responsibility for facilities management, caseflow management, personnel and budgeting. The administrator also acts as an administrative assistant to the judges and is responsible for implementing policies and procedures which they propose.

As administrator for the Circuit Court, Laila Olson developed the court's first civil and domestic mediation program and implemented computerization in the court through the introduction of computer terminals with word processing ability and access

to Grand Traverse County's AS400 mainframe. This computerization has enabled the court to access its civil and domestic relations docket in all three counties through individual terminals in the Traverse City administrator's office and also has provided the office with the ability to prepare computer-generated notices of hearing and trial notices which are then automatically entered into a case-tracking and informational record. Further, within the last year, the court's civil and domestic relations mediation scheduling, records and forms have been programmed into the system, eliminating a great deal of staff time previously engaged in following a mediation "paper trail."

Another goal in the past year had been to progress with the development and implementation of a computer program to encompass the criminal docket for all three counties. With the cooperation of the Management Information Systems department of Grand Traverse County, additional staffing was assigned to research the court's needs and design a program modeled upon one already in existence for civil cases. Implementation of the new criminal program occurred in 1997.

With the critically needed addition to, and reassignment of, staff within the administrator's office in the last two years, several vital functions of the office were reassigned.



Karen Schaub, who previously acted as a Judicial Secretary and Mediation Clerk, has been promoted to Assistant to the Court Administrator and Mediation Clerk. Karen is responsible for monitoring all civil and domestic relations cases after they are ordered into facilitative and court rules mediation. She has also developed statistical reports which assist the court in tracking the rate of acceptance achieved by the members of its mediation panels as well as the overall success in achieving resolution of cases. In 1997 109 cases were ordered into facilitative mediation. Of

those, 18 were settled prior to mediation, of 78 cases which were mediated, 28 cases were resolved and 50 cases were not settled.

As Assistant to the Court Administrator she aids the Administrator with payroll functions, caseflow management, provides assistance to the judges when the Administrator is unavailable, and is responsible for the direction of the clerical staff in the Administrator's absence.



All court scheduling for the two judges and domestic relations referee is managed by Carol Devantier, Assignment Clerk. Carol provides members of the local Bar Association with updated lists of the court's motion and criminal days and provides assistance when questions as to our motion hearing, settlement conference or trial scheduling procedures arise.

Julie Arends, Judicial Secretary in the Administrator's office, transcribes and types all judicial decisions, orders and correspondence. In addition, she reviews all pending divorce cases prior to their hearing dates to determine whether the parties are in compliance as to service, notice and preparation of judgments. This information is referred to the judges prior to their motion days. Julie also prepares pre-trial work sheets for the court.





Norma Sandelius, the court's receptionist, is also responsible for scheduling of all uncontested divorces, reviewing incoming mail, motions and personal protection orders and distributing them to the appropriate individuals within the office. Norma also manages the assignment of courtrooms and court reporters for each day's schedule.



Teri Stine is assigned the responsibility for the court's collections of fines, costs, attorney fees and restitution from convicted felons. This position also provides backup assistance to the Court's full-time receptionist and oversees the Court's crime victim fund.

Ms. Stine is also working with the Circuit Court Records office and MIS, the Grand Traverse County data processing department, to assist in the development of the aspects of the new criminal computer program relating to receipting of money due from fines, costs, restitution and attorney fees and reconciling those receipts against collections' records of amounts owed.



DOMESTIC RELATIONS REFEREE

The Court employed a full-time domestic relations referee in 1996, after contracting the work for two years.

The domestic relations referee hears all cases involving disputes involving minor children, whether in a divorce case, paternity file or support matter.

The addition of a referee position within the Circuit has been of great assistance in expediting hearings devoted to child custody, child support or visitation. Parties are able to obtain hearing dates more quickly for these critical matters than was previously possible.

In 1994, 51 days were

utilized for custody trials before the referee, and 89 motion hearings were scheduled. In 1995, after the referee began scheduling status conferences for every disputed custody case, only 34 days were utilized for custody trials. Instead, 216 motions and status conferences were conducted. The result is greater certainty and stability for children, lower costs to litigants and a more efficient and prompt resolution of disputes by the Court.⁴

After a change in legislation which provided a user-friendly form for individuals to request personal protection orders without need for counsel, the court experienced a tremendous increase in case filings for such orders. The referee was assigned the task of reviewing requests for restraining orders to determine if they contained sufficient information, both to enable the judges to sign them, and for law enforcement agencies to enter them into LEIN and enforce them.

This preliminary review,

⁴The Domestic Relations Referee will continue to provide the same assistance within the new Family Division.

which is documented by the referee's written notes attached to each proposed personal protection order, is of inestimable value to the court for the time it saves in reviewing and processing these orders.



PROBATION OFFICE

Probation officers who assist the Circuit Court are employees of the Michigan Department of Corrections. The probation agents are responsible for interviewing defendants convicted of criminal felony or high misdemeanors. In these interviews, they obtain the

Defendants' statements. The agents also research the defendants' background for information as to family, education, physical characteristics and previous criminal history for purposes of preparing a written report which the Court utilizes in sentencing.

The agents also are required to monitor those defendants sentenced to a period of probation to assure their compliance with the court's orders as to substance abuse treatment, counseling, further education, employment, and repayment of court costs and fines.

Within the last year the Court has been fortunate to have an agent housed in an office in both Leelanau and Antrim Counties. These agents now provide even greater service to Leelanau and Antrim Counties and are more readily accessible to community members as well as their caseload.

Through the cooperation of the agents working with the Collection Clerk, the court was able to recoup \$259,824 in fines, costs, attorney fees and restitution in 1997. (See Collections Chart). Fines support public libraries and costs and attorney fees are

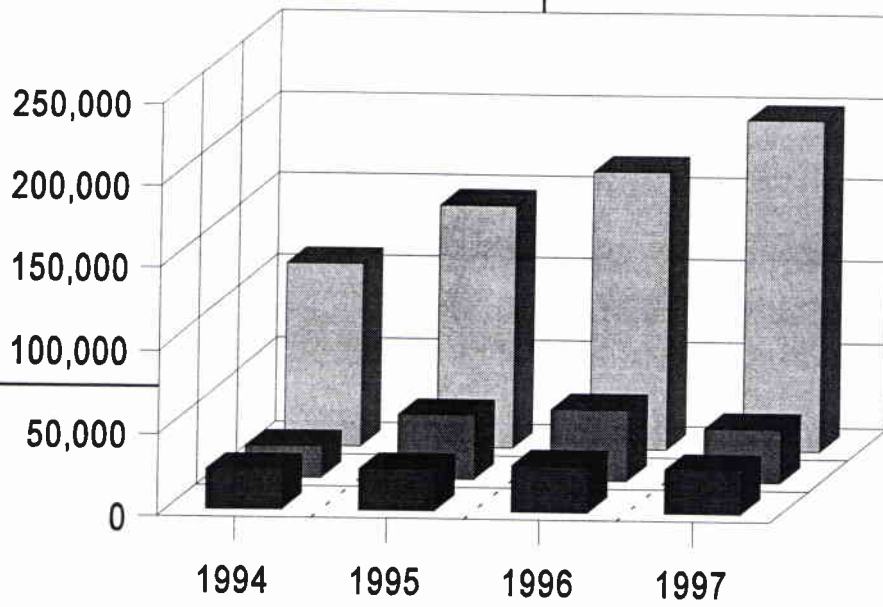
returned to the counties to the benefit of local taxpayers. Restitution, of course, is paid to crime victims.

RESTITUTION AND CRIME VICTIM RIGHTS

In June of 1995, the Court was awarded a grant of \$5,000 from Rotary Charities of Traverse City. Grand Traverse County matched this grant and the Court was able to establish a local crime victim rights fund.

Our goal in requesting these grant monies was the establishment of a fund from which the Court could assist the victims of crime who suffered from property damage or loss. While the State has a Victims Rights Compensation program, only individuals claiming personal injuries may receive payment. Our program provides local victims of crime with another avenue through which to seek relief for their financial losses. Only victims with no insurance coverage or with deductibles are eligible. The program also reviews claims for personal injury that were not fully compensated by the State's program.

Collections



Grand Traverse Leelanau
Antrim

Upon conviction, each criminal defendant is assessed \$50.00 which is deposited to the local crime victim fund. Through these assessments, the requirement of reimbursement by defendants for restitution payments from the fund, and attentive monitoring of the fund by our Collections Clerk, we have developed a crime victim fund which is self-perpetuating.

The Court orders restitution be paid by convicted felons to the victims of crime whenever it appears possible to collect. That is, if the defendant is not to be sentenced to a lengthy period of prison incarceration and does not suffer from severe physical or mental infirmities which would prevent him or her from being employed.

Once restitution is ordered, its payment is monitored by the Collections Clerk. Defendants who are employable are required to have a wage assignment in place and to make regular, consistent payments to the Court. Failure to do so may result in their being brought before the Court to show cause why they should not be held in contempt and their work release from jail suspended, or an additional period of incarceration

imposed.

We are pleased to report this program has succeeded as anticipated; the Court will, in 1998, repay the grant monies generously provided by Rotary Charities along with the matching \$5,000 contributed by Grand Traverse County towards the development of this program. The local fund has, in fact, become self-perpetuating and may be continued without further grant requests and after return of the original grant money.



JUDICIAL ASSISTANTS

Each judge has in his employ a full-time legal assistant. These individuals provide assistance to the court through legal research, memorandum and draft opinion writing and providing jury bailiff assistance during jury trials.

Each assistant works with the judge in the preparation of the court's civil scheduling conference order, so that realistic time frames are established for the progress of litigation through the stages of discovery, mediation, arbitration, settlement conference and trial.

In some instances, the legal assistant may also be

called upon to work directly with litigants and their attorneys during the judges' settlement conferences so that the judge may be kept apprised during the conference process of the positions taken by the parties during the different stages of the negotiations.

Each judge has made known to the local Bar that his legal assistant may be contacted if counsel should have a question with regard to the Court's local policies and procedures.

FRIEND OF THE COURT

The Friend of Court office is responsible for representing the best interests of the children in those cases which come before the Circuit Court because of divorce, custody, child support, visitation or paternity disputes. In this capacity the Friend of Court's case managers conduct interviews, gather financial data, mediate with parties and prepare written proposals offering their recommendations for review by the Circuit Judges as to what would be the best resolution possible for the children in these situations.

Friend of the Court staff consists of 16 case managers and clerical assistants, who have the responsibility for managing a domestic relations caseload of 5,438 cases.

The office has excelled within the State of Michigan in its collections of child support. In 1997 support collections totaled \$15,602,877.

To streamline the processing of support payments, the Friend of Court introduced an Electronic Funds Transfer system which permits the automatic deposit of child support monies from the payor to the payee. Utilization of this system has saved court staff many hours of time, as well as hard costs for paper, checks, envelopes and stamps. The savings to the Court has exceeded \$40,000 in each of the years of its usage.

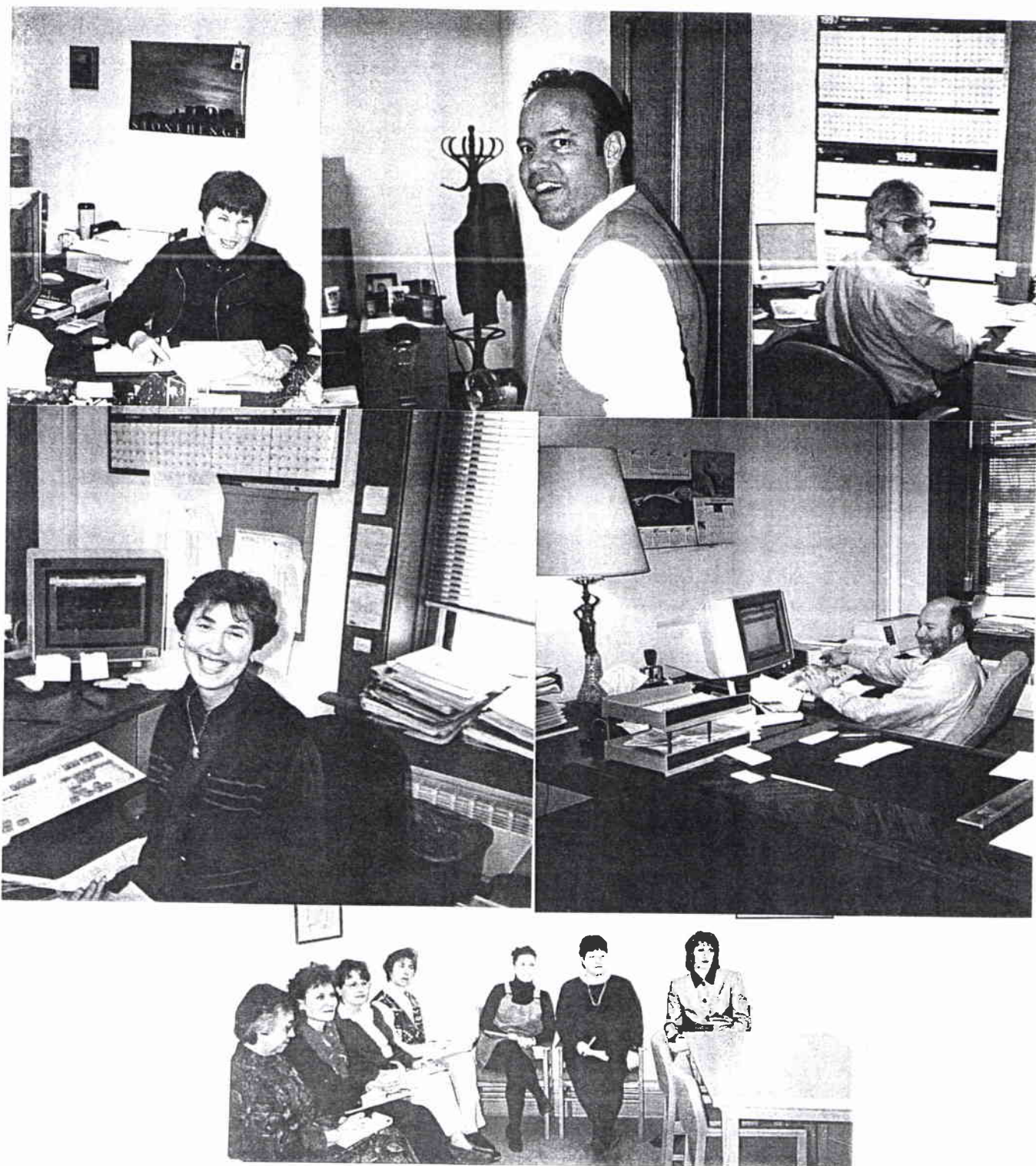
S M I L E
START MAKING IT LIVABLE
FOR EVERYONE

To assist divorcing parents to understand the effects their divorce has upon their children, the Thirteenth Circuit has adopted the SMILE program. This program,

originally developed in Oakland County, is presented in conjunction with the Women Lawyers Association of Michigan-Northwest Region and the Judges and Friend of Court staff.

The program, presented by the Judges, a Friend of Court caseworker and a psychologist, is designed to impart to divorcing parents the serious consequences that may occur to the children of divorce. The goal is to make parents cognizant of the effects their behavior and decisions may have upon their children both before and after the divorce.

Attendance at a SMILE program is mandatory within the Circuit for all parties who have filed for divorce. Reviews of the program have been very complimentary and parents seem to appreciate this early intervention into a difficult emotional issue for them. The information and advice they receive is useful and practical with respect to processing their case as well as lessening the trauma for their children.



LOOKING TO THE FUTURE

As mentioned in the Introduction to this report, in 1996 the Michigan Legislature passed Public Act 388, which called for the development of a Family Division of the Circuit Court. This new law, which is to take effect January 1, 1998, transfers the jurisdiction of all matters involving juveniles, previously under the Probate Court's aegis, to the Circuit Court.

This restructuring of the court system resulted from the legislature's goal of providing a means for families in need of court services in divorce, paternity, support or juvenile court proceedings to acquire those services through one centralized court. For example, under the current judicial system families filing abuse and neglect petitions need to do so in the Probate Court. If they are simultaneously involved in a divorce proceeding, they need to file papers and appear in the Circuit Court. These families would theoretically be appearing before two different judges in two different courthouses. Although this actually never occurred in

recent years, the legislature restructured the entire court system to make certain such events would not occur.

As required by this legislation, the Chief Judge of the Circuit Court and Chief Judges of our three county Probate Courts have come to agreement upon a plan for a Family Division which they feel meets the requirements of the legislation, the recommendations of the State Supreme Court and which they are confident will result in a regional court which will efficiently serve the local bar and citizens.

The approved Family Plan assigns the three Probate Judges as permanent Family Division Judges with the responsibility for hearing all domestic relations cases within their respective counties in addition to their continued responsibilities as Probate Judges. Due to the disparately large caseload of the Grand Traverse County Probate Judge, the two Circuit Judges will also act as Family Division Judges and will be assigned all of the divorce cases not involving children in the county.

The plan also addresses this disparity in case load by

<p>providing the Chief Judge Pro Tem, who acts as the liaison between the Chief Circuit Judge and the Family Division Judges, with the authority to more fairly distribute the Family Division workload. In addition, any Family Division Judge may be assigned to cover for any other Family Division Judge in cases of vacation, illness or emergency.</p>	
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